

Pre Petition Tax Information pursuant to 11 USC § 521(e)

- For all individual Chapter 7 & 13 cases filed on or after October 17, 2005, the Debtor must provide **the Trustee** with their Federal Tax Return for the most recent year **no later than 7 days before the Section 341 Meeting**.
- Debtors may also provide a transcript of the tax return, or a written statement that documentation does not exist.
- Do not file Pre-Petition Tax Information with the Court!

Pre Petition Tax Information Con't

- Creditors/Parties in Interest may also request copies of Debtor's pre-petition tax information and must **make their request directly to the debtor at least 15 days prior to the Section 341 Meeting date**
- Debtor must furnish the requesting party the most recent year for which a return was filed no later than 7 days before the Section 341 Meeting.

Pertinent Interim Federal and Interim Local Rules

- **Interim Federal Rule 4002** -- Debtor's Duties
- **Interim Local Rule 4002-3 (new)** – Federal Tax Returns
- **Interim Local Rule 9004-1** – Personal Identifiers -- The Court is not responsible for redacting any personal identifiers!

Post Petition Tax Information pursuant to 11 USC § 521(f)

- At the **written request** of the Court, US Trustee or Party in Interest, **individual Chapter 7/11/13 Debtors shall:**
 1. File with the Court (simultaneous to filing with the taxing authority), a copy of a Federal Income Tax Return (or transcript) for each tax year ending while the case is pending;

Post Petition Tax Information pursuant to 11 USC § 521(f)

- 2. File (simultaneous to filing with the taxing authority), a copy of any **previously due** Federal Income Tax Return (or transcript) that had not been filed with the IRS as of the date of commencement of the case, for any tax year ending in the three years before the case began.
- 3. Copies of any amendments to Federal Returns under 1 & 2 above;

Tax Returns in Chapter 13 Cases pursuant to 11 USC § 521(f)(4)

- **In a Chapter 13 Case**, at the request of the Court, UST or Party in Interest, the debtor must file a Statement of Debtor's Income & Expenditures **during the tax year most recently concluded**:
 1. Statements due on the date that is 90 days after the tax year's end, or one year after case commencement if plan is not confirmed before such later date;
 2. Annually after plan is confirmed and until the case is closed (the filing of the tax returns should be no later than 45 days before the anniversary of plan confirmation).

Sequence of Post Petition Tax Request Process

- Creditor or Interested Party files a Request for Copy of Debtor's Tax Information
 - Local Form G.1/G.2
 - 13 day objection deadline set
- If granted, Debtor files Tax Documents (private event) with the Court upon filing with the taxing authority.

Debtor's Failure to File Tax Documents

- **May result in:**
 - Dismissal of the case by the court upon Motion, unless debtor demonstrates failure to comply was due to circumstances beyond debtor's control, or
 - Delay of entry of discharge upon Motion. Motion to Delay Discharge will prevent entry of discharge until motion is resolved. (Rule 4004(c)(1)(k))

Copy/Inspection of Tax Documents

- In order to copy or inspect tax documents filed with the court, a Party in Interest must first file a **Motion for Access to Tax Documents**. The Motion shall include:
 - Which specific tax documents
 - Select the method by which tax information will be transmitted to requestor
 - Statement demonstrating a need for the information, and that it cannot be obtained from any other source
- Local Forms H.1/H.2
- Motion receives a 13 day objection deadline

Copy/Inspection of Tax Documents

- If **Motion for Access is Granted:**
 - Court will transmit information according to the method designated in the Motion for Access.
 - Regular mail or In person
 - Applicable miscellaneous copying fee applies

New Electronic Filing Events

- Certificate of Service of Tax Docs to Requestor –
(Available for use by Debtors to document that they have satisfied their pre-petition tax responsibilities under § 521)
- Request for Copy of Debtor's Tax Information
(Attach Local Form G.1/G.2)
- Tax Documents
- Motion to Delay Discharge (Available to party in interest if Debtor fails to file tax documents)
- Motion for Access to Tax Information (Attach Local Form H.1/H.2)

New Local Forms

- Request for Debtor to File Post Petition Tax Information (**Local Forms G.1 and G.2**)
 - Local Form G.1 to be used by party represented by an attorney
 - Local Form G.2 to be used by a party in interest not represented by counsel
- Both forms contain Penalty of Perjury Language

New Local Forms con't

- Motion by Party in Interest for Access to Tax Information **(Local Forms H.1 and H.2)**
 - Local Form H.1 to be used by party represented by an attorney
 - Local Form H.2 to be used by a party in interest not represented by counsel
 - Filer must specify tax documents, and include method of transmission desired (mail or in person only)
- Both forms contain Penalty of Perjury Language